

**ROUTH CRABTREE OLSEN, P.S.**  
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Honorable Judge Albert E. Radcliffe  
Chapter 13

IN THE UNITED STATES BANKRUPTCY COURT  
DISTRICT OF OREGON

In re:

Timothy Douglas Van Horn

Debtor.

Case No. 10-66502-AER13

OBJECTION TO CONFIRMATION  
By WELLS FARGO BANK, N.A.

COMES NOW Wells Fargo Bank, N.A., ("Creditor"), and objects to confirmation of Timothy Douglas Van Horn's ("Debtor" herein) proposed Chapter 13 plan (the "Plan").

**I. BACKGROUND**

On or about September 21, 2007, Timothy Douglas Van Horn, executed and delivered a Promissory Note ('Note') in favor of Wells Fargo Bank, N.A. in the original principal amount of \$417,000.00. This Note was secured by a Deed of Trust ('Deed') encumbering real property commonly described as 1942 NW Rivermist Drive Bend, OR 97701 ('Property').

The outstanding principal balance due on the Note as of filing was approximately \$408,290.94. As of the same date the loan was contractually due for the July 1, 2009 payment. See Creditor's proof of claim for exact amounts. The pre-petition arrears, including payments, late charges, escrow advances and accrued fees and costs are estimated to be \$59,511.57 and will be reflected in a proof of claim to be filed shortly.

**II. AUTHORITY AND ARGUMENT**

Creditor objects to confirmation of the Plan as it will not satisfy Creditor's secured claim. The Plan as proposed is therefore not feasible under 11 U.S.C. § 1325(a)(5), as Creditor does not accept the plan and the value of property to be distributed under the plan is less than the allowed amount of Creditor's claim. Further, the Plan does not comply with 11 U.S.C. § 1322 (b)(5), as it does not provide for the cure of an existing default within a reasonable time or require the maintenance of payments while

1 the case is pending on a secured claim on which the last payment is due after the date on which the final  
2 payment under the plan is due. The Plan provides that

3 Debtor shall sell property located at 1942 NW Rivermist Dr., Bend, OR 97701 on a short sale to  
4 an unrelated party. The value of the property is \$320,000 and outstanding liens total \$470,955.  
5 Proceeds of the sale will pay first outstanding liens; any deficiency shall be treated as an  
6 unsecured claim pursuant to paragraph 2(f) above. This plan shall serve as notice of the sale and  
7 confirmation of this plan shall serve as approval of the sale provision.

8 Creditor does not accept the Plan or Debtor's valuation of the Property at \$320,000.00. Creditor requests  
9 an evidentiary hearing at which time Creditor will present evidence as to the value of the Property.  
10 Creditor objects to the approval of any sale prior to the appropriate motion and notice of said sale being  
11 filed, including the terms of the sale, etc. Creditor further objects to any provision of the Plan which would  
12 compel Creditor to accept a short sale.

13 Creditor finally objects to confirmation of the Plan as it does not provide for adequate protection  
14 payments to Creditor pending sale, a reasonable deadline by which the Property is to be sold and finally an  
15 alternative means of satisfying Creditor's claim in the absence of sale.

16 WHEREFORE, Creditor respectfully requests the Court deny confirmation of the proposed Chapter  
17 13 plan.

18 DATED December 6, 2010.

19 **ROUTH CRABTREE OLSEN, P.S.**  
20 ATTORNEYS AT LAW  
21 Attorneys for Creditor

22 /s/ James K. Miersma  
23 By: James K. Miersma, OSB #021623  
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The Honorable Judge Albert E. Radcliffe

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF OREGON

In re:  
Timothy Douglas Van Horn

Chapter 13 Bankruptcy

No.: 10-66502-AER13

CERTIFICATE OF MAILING

Debtor.

CERTIFICATE OF MAILING

I hereby certify under penalty of perjury under the laws of the State of Washington that I mailed a true and correct copy of the Objection to Confirmation postage pre-paid, regular first class mail on the 17th day of December, 2010, to the parties listed on the attached exhibit.

DATED this 17th day of December, 2010.

/s/ Joe Hinson

Assistant to Attorney

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